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09/877,729	06/08/2001	Franz Wakefield	4551.002	8957
7590	12/28/2005		EXAMINER	
COOLTv NETWORK.COM, INC. 17731 Northwest 14th Court Miami, FL 33169			PESIN, BORIS M	
		ART UNIT	PAPER NUMBER	
		2174		

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/877,729	WAKEFIELD, FRANZ	
	Examiner	Art Unit	
	Boris Pesin	2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 May 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

This communication is responsive to an amendment filed 05/11/2005.

Claims 1-20 are pending in this application. Claims 1 and 20 are independent claims. In the RCE filed 05/11/2005, none of the claims were amended. This action is made Non-Final.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Objections***

Claim 18 is objected to because of the following informalities:

On line 2 of the claim, the Applicant states "overwriting" however the specification discusses "overriding." Did the Applicant mean to say overwrite or override? The Examiner requests the Applicant to clarify, and if necessary, appropriate correction is required.

### ***Affidavit***

In light of new art found upon this examination, the Affidavit filed 01/07/2005 in regards to claim 1-16 and 19-20 is moot.

With respect to claims 17 and 18, the evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Efrat et al. reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means

themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897).

In particular, after careful review of the Affidavit, the Examiner cannot locate any support for the following limitations:

“An apparatus wherein said at least one predetermined parameter comprises the reaching of a predetermined segment of a digital media file”.

“An apparatus comprising a means for overwriting said parameters when a user selects at least one of said plurality of predetermined functions.”

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

It is unclear to the Examiner how “hot spots” that are visually manifested and are clickable, can reside in and be accessible from an audio digital file.

Due to the 112, first paragraph rejection, no art rejection will be applied to claim 12.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 5, 6, 8, 9, 13, 14, 15, 16, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Vanechanos, JR. (US 5884309).

In regards to claim 1, Vanechanos teaches a multifunctional hot spot apparatus comprising a set of processed or readable instructions storable on a retaining medium (column 5, lines 59-66); at least one hot spot defined by any communication with said instructions, and having a means for performing at least one of a plurality of predetermined functions, to said hot spots being accessible from a globally accessible network (i.e. "The HTML code that search processor 62 generates in association with each item in the temporary item file may include a hyperlink. The search form may thus allow a user to view images of the items or obtain further information about an item or its manufacturer by clicking on hot-spots (not shown). The merchant parameter file may include statements that specify associated image files, HTML files, or URLs. If an associated object is an image file or HTML file, search processor 62 generates HTML code representing a hyperlink to it. If an associated object is a URL, search processor 62 generates HTML code representing a hyperlink having that URL." Column 15, Line 14); means, defined by said instructions, for selecting and activating at least one of said predetermined functions (i.e. "The HTML code that search

processor 62 generates in association with each item in the temporary item file may include a hyperlink. The search form may thus allow a user to view images of the items or obtain further information about an item or its manufacturer by clicking on hot-spots (not shown). The merchant parameter file may include statements that specify associated image files, HTML files, or URLs. If an associated object is an image file or HTML file, search processor 62 generates HTML code representing a hyperlink to it. If an associated object is a URL, search processor 62 generates HTML code representing a hyperlink having that URL." Column 15, Line 14).

In regards to claim 2, Vanechanos teaches a means for identifying said hot spots (i.e. "The HTML code that search processor 62 generates in association with each item in the temporary item file may include a hyperlink. The search form may thus allow a user to view images of the items or obtain further information about an item or its manufacturer by clicking on hot-spots (not shown). The merchant parameter file may include statements that specify associated image files, HTML files, or URLs. If an associated object is an image file or HTML file, search processor 62 generates HTML code representing a hyperlink to it. If an associated object is a URL, search processor 62 generates HTML code representing a hyperlink having that URL." Column 15, Line 14).

In regards to claim 3, Vanechanos teaches a means for identifying items on a website for purchase (i.e. "The HTML code that search processor 62 generates in association with each item in the temporary item file may include a hyperlink. The search form may thus allow a user to view images of the items or obtain further

information about an item or its manufacturer by clicking on hot-spots (not shown). The merchant parameter file may include statements that specify associated image files, HTML files, or URLs. If an associated object is an image file or HTML file, search processor 62 generates HTML code representing a hyperlink to it. If an associated object is a URL, search processor 62 generates HTML code representing a hyperlink having that URL." Column 15, Line 14).

In regards to claim 5, Vanechanos teaches a means for linking to at least one predetermine URL address when said hot spot is activated (i.e. "The HTML code that search processor 62 generates in association with each item in the temporary item file may include a hyperlink. The search form may thus allow a user to view images of the items or obtain further information about an item or its manufacturer by clicking on hot-spots (not shown). The merchant parameter file may include statements that specify associated image files, HTML files, or URLs. If an associated object is an image file or HTML file, search processor 62 generates HTML code representing a hyperlink to it. If an associated object is a URL, search processor 62 generates HTML code representing a hyperlink having that URL." Column 15, Line 14).

In regards to claim 6, Vanechanos teaches a means for storing and retrieving digital media, said digital media having at least one said hot spot defined therein (i.e. "The HTML code that search processor 62 generates in association with each item in the temporary item file may include a hyperlink. The search form may thus allow a user to view images of the items or obtain further information about an item or its manufacturer by clicking on hot-spots (not shown). The merchant parameter file may

include statements that specify associated image files, HTML files, or URLs. If an associated object is an image file or HTML file, search processor 62 generates HTML code representing a hyperlink to it. If an associated object is a URL, search processor 62 generates HTML code representing a hyperlink having that URL." Column 15, Line 14).

In regards to claim 8, Vanechanos teaches a means for accessing and activating digital media when said hot spot is activated (i.e. "The HTML code that search processor 62 generates in association with each item in the temporary item file may include a hyperlink. The search form may thus allow a user to view images of the items or obtain further information about an item or its manufacturer by clicking on hot-spots (not shown). The merchant parameter file may include statements that specify associated image files, HTML files, or URLs. If an associated object is an image file or HTML file, search processor 62 generates HTML code representing a hyperlink to it. If an associated object is a URL, search processor 62 generates HTML code representing a hyperlink having that URL." Column 15, Line 14).

In regards to claim 9, Vanechanos teaches a means for communicating a website to a user with a digital media file having at least one said hot spot (i.e. "The HTML code that search processor 62 generates in association with each item in the temporary item file may include a hyperlink. The search form may thus allow a user to view images of the items or obtain further information about an item or its manufacturer by clicking on hot-spots (not shown). The merchant parameter file may include statements that specify associated image files, HTML files, or URLs. If an associated

object is an image file or HTML file, search processor 62 generates HTML code representing a hyperlink to it. If an associated object is a URL, search processor 62 generates HTML code representing a hyperlink having that URL." Column 15, Line 14).

In regards to claim 13, Vanechanos teaches that hot spot resides in and is accessible from a digital media file (i.e. "The HTML code that search processor 62 generates in association with each item in the temporary item file may include a hyperlink. The search form may thus allow a user to view images of the items or obtain further information about an item or its manufacturer by clicking on hot-spots (not shown). The merchant parameter file may include statements that specify associated image files, HTML files, or URLs. If an associated object is an image file or HTML file, search processor 62 generates HTML code representing a hyperlink to it. If an associated object is a URL, search processor 62 generates HTML code representing a hyperlink having that URL." Column 15, Line 14).

In regards to claim 14, Vanechanos teaches that the means for selecting and activating comprises: a menu of identifiers in communication with said functions for identifying and providing access to said functions; said identifiers each corresponding to and being in communication with at least one of said predetermined functions, said identifiers having a means for activating a function when a corresponding identifier is activated (i.e. "The HTML code that search processor 62 generates in association with each item in the temporary item file may include a hyperlink. The search form may thus allow a user to view images of the items or obtain further information about an item or its manufacturer by clicking on hot-spots (not shown). The merchant parameter file may

include statements that specify associated image files, HTML files, or URLs. If an associated object is an image file or HTML file, search processor 62 generates HTML code representing a hyperlink to it. If an associated object is a URL, search processor 62 generates HTML code representing a hyperlink having that URL." Column 15, Line 14).

In regards to claim 15, Vanechanos teaches at least one globally accessible address that is accessible through a globally accessible network when said corresponding identifier is selected activated (i.e. "The HTML code that search processor 62 generates in association with each item in the temporary item file may include a hyperlink. The search form may thus allow a user to view images of the items or obtain further information about an item or its manufacturer by clicking on hot-spots (not shown). The merchant parameter file may include statements that specify associated image files, HTML files, or URLs. If an associated object is an image file or HTML file, search processor 62 generates HTML code representing a hyperlink to it. If an associated object is a URL, search processor 62 generates HTML code representing a hyperlink having that URL." Column 15, Line 14).

In regards to claim 16, Vanechanos teaches at least one predetermined parameter that activates a corresponding function from said plurality of functions when said parameter is satisfied (i.e. "The HTML code that search processor 62 generates in association with each item in the temporary item file may include a hyperlink. The search form may thus allow a user to view images of the items or obtain further information about an item or its manufacturer by clicking on hot-spots (not shown). The

merchant parameter file may include statements that specify associated image files, HTML files, or URLs. If an associated object is an image file or HTML file, search processor 62 generates HTML code representing a hyperlink to it. If an associated object is a URL, search processor 62 generates HTML code representing a hyperlink having that URL." Column 15, Line 14, the user clicks on the URL to satisfy the parameter).

In regards to claim 19, Vanechanos teaches a means for adding at least one additional function to a predetermined hot spot (i.e. "The HTML code that search processor 62 generates in association with each item in the temporary item file may include a hyperlink. The search form may thus allow a user to view images of the items or obtain further information about an item or its manufacturer by clicking on hot-spots (not shown). The merchant parameter file may include statements that specify associated image files, HTML files, or URLs. If an associated object is an image file or HTML file, search processor 62 generates HTML code representing a hyperlink to it. If an associated object is a URL, search processor 62 generates HTML code representing a hyperlink having that URL." Column 15, Line 14, the user clicks on the URL to satisfy the parameter).

In regards to independent claim 20, Vanechanos teaches a software apparatus for use on a globally accessible website, comprising:

A set of processed readable instructions stored on a tangible medium for creating and controlling at least one pre-identified hot spot, said hot spot having a plurality of predetermined functions (i.e. "*The HTML code that search processor 62 generates in*

*association with each item in the temporary item file may include a hyperlink. The search form may thus allow a user to view images of the items or obtain further information about an item or its manufacturer by clicking on hot-spots (not shown). The merchant parameter file may include statements that specify associated image files, HTML files, or URLs. If an associated object is an image file or HTML file, search processor 62 generates HTML code representing a hyperlink to it. If an associated object is a URL, search processor 62 generates HTML code representing a hyperlink having that URL." Column 15, Line 14); said functions dictating the action taken by said hot spots when activated, said functions having means for accessing predetermined locations that are accessible from a globally accessible network (i.e. "The HTML code that search processor 62 generates in association with each item in the temporary item file may include a hyperlink. The search form may thus allow a user to view images of the items or obtain further information about an item or its manufacturer by clicking on hot-spots (not shown). The merchant parameter file may include statements that specify associated image files, HTML files, or URLs. If an associated object is an image file or HTML file, search processor 62 generates HTML code representing a hyperlink to it. If an associated object is a URL, search processor 62 generates HTML code representing a hyperlink having that URL." Column 15, Line 14); means for selecting and activating at least one function from said plurality of functions based on predetermined parameters, at least one of said predetermined parameters comprising a user originated input that selects and activates at least one function from said plurality of functions when said hot spot is activated (i.e. "The HTML code that search processor*

*62 generates in association with each item in the temporary item file may include a hyperlink. The search form may thus allow a user to view images of the items or obtain further information about an item or its manufacturer by clicking on hot-spots (not shown). The merchant parameter file may include statements that specify associated image files, HTML files, or URLs. If an associated object is an image file or HTML file, search processor 62 generates HTML code representing a hyperlink to it. If an associated object is a URL, search processor 62 generates HTML code representing a hyperlink having that URL." Column 15, Line 14, the user selects the link to activate the function of retrieving the data).*

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vanechanos, JR. (US 5884309) in further view of Ausubel (US 5905975).

As per claim 4, which is dependent on claim 1, the teachings of Vanechanos in regards to claim 1 have been discussed above. Vanechanos does not disclose a means for conducting an auction and receiving bids for the purchase of identified items.

Ausubel teaches a means for conducting an auction and receiving bids for the purchase of identified items (abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Vanechanos to include a means to conduct an auction and receive bids, as taught by Ausubel, with the motivation to allow users to engage in auction activity more efficiently (column 5, lines 26-30).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vanechanos, JR. (US 5884309) in further view of Dekelbaum et al. ("Dekelbaum," US005838682A).

As per claim 7, which is dependent on claim 1, the teachings of Vanechanos in regards to claim 1 have been discussed above. Vanechanos does not disclose a means for calling a predetermined phone number when said hot spot is activated.

Dekelbaum teaches a means for calling a predetermined phone number when said hot spot is activated (column 12, lines 1-22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Vanechanos with a means to call a phone number when a hotspot (*i.e. hyperlink*) is activated, as taught by Dekelbaum, with the motivation to automatically initiate connectivity with an individual over a telephone network in order to receive help from or communicate with other parties (column 5, lines 10-14).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vanechanos, JR. (US 5884309) in further view of Houser et al. (US 5774859).

As per claim 10, which is dependent on claim 1, the teachings of Vanechanos in regards to claim 1 have been discussed above. Vanechanos does not disclose a voice recognition means for activating at least one of said predetermined functions based on the sound of the user's voice.

Houser teaches a voice recognition means for activating at least one of said predetermined functions based on the sound of the user's voice (Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Vanechanos with a means to activate a function based on a user's voice, as taught by Houser, with the motivation provide the user with an easier method of using the interface (Column 2, Line 27).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vanechanos, JR. (US 5884309) in further view of Isadore-Barreca (US 5590262).

In regards to claim 11, Vanechanos teaches all the limitations of claim 1. Vanechanos does not teach an apparatus wherein said hotspots reside on and are accessible from a digital video file. Isadore-Barreca teaches, "A simple example might be where the inventive interactive video interface 10 is to be used as a sales promotional device, each item which is for sale could be a hot spot 52. As can be seen in the view of FIG. 8, in the best presently known embodiment 10 of the present invention, the hot spots 52 are rectangular in shape, although it is anticipated than hot

spots of other shapes, including individually shaped hot spots conforming to the outline of objects of interest, will be used in the future." Column 9, Line 59). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Vanechanos with the teachings of Isadore-Barreca and include an apparatus wherein said hotspots reside on and are accessible from a digital video file with the motivation to provide the user with a more attractive sales technique (Column 2, Line 58).

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vanechanos, JR. (US 5884309) in further view of Efrat et al. ("Efrat,"US006570587B1).

As per claim 17, which is dependent on claim 16, Vanechanos teaches all the limitations of claim 16. Vanechanos does not teach at least one predetermined parameter comprises the reaching of a predetermined segment of a digital media file. Efrat teaches that at least one predetermined parameter comprises the reaching of a predetermined segment of a digital media file (column 27, lines 33-45). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Vanechanos with a means to activate a plurality of functions when a parameter is met, as taught by Efrat, with the motivation to allow the application to initiate certain actions without user input (column 26, lines 12-14).

As per claim 18, which is dependent on claim 17, Efrat teaches a means for overwriting said parameter when a user selects at least one of said plurality of predetermined functions (column 26, lines 12-15, *user can activate hotspots prior to a*

*programmatic actuation and thereby effectively overwrite the programmatic action by preventing it from ever occurring).*

***Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boris Pesin whose telephone number is (571) 272-4070. The examiner can normally be reached on Monday-Friday except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BP

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